

5/13/14

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Chapter No. 499
16/SS26/R1111SG
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SENATE BILL NO. 2858

Originated in Senate  Secretary

SENATE BILL NO. 2858

AN ACT TO CREATE THE TAXPAYER PAY RAISE ACT OF 2016; TO AMEND SECTION 27-7-5, MISSISSIPPI CODE OF 1972, TO PHASE OUT, AFTER CALENDAR YEAR 2023, INCOME TAXATION ON THE FIRST \$5,000.00 OF TAXABLE INCOME; TO AMEND SECTION 27-7-18, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT A PORTION OF THE FEDERAL SELF-EMPLOYMENT TAXES ASSESSED AGAINST SELF-EMPLOYED INDIVIDUALS SHALL BE ALLOWED AS AN ADJUSTMENT TO GROSS INCOME UNDER THE STATE INCOME TAX LAW; TO AMEND SECTIONS 27-13-5 AND 27-13-7, MISSISSIPPI CODE OF 1972, TO PHASE OUT THE CORPORATION FRANCHISE TAX EFFECTIVE JANUARY 1, 2028; TO REPEAL, EFFECTIVE JANUARY 1, 2028, SECTIONS 27-13-1 THROUGH 27-13-67, MISSISSIPPI CODE OF 1972, WHICH ARE THE CORPORATION FRANCHISE TAX LAW; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 27-7-5, Mississippi Code of 1972, is amended as follows:

27-7-5. (1) There is hereby assessed and levied, to be collected and paid as hereinafter provided, for the calendar year 1983 and fiscal years ending during the calendar year 1983 and all taxable years thereafter, upon the entire net income of every resident individual, corporation, association, trust or estate, in excess of the credits provided, a tax at the following rates:

(a) (i) Through calendar year 2017, on the first Five Thousand Dollars (\$5,000.00) of taxable income, or any part thereof, * * * the rate * * * shall be three percent (3%);

(ii) For calendar year 2018, on the first One Thousand Dollars (\$1,000.00) of taxable income there shall be no tax levied, and on the next Four Thousand Dollars (\$4,000.00) of taxable income, or any part thereof, the rate shall be three percent (3%);

(iii) For calendar year 2019, on the first Two Thousand Dollars (\$2,000.00) of taxable income there shall be no tax levied, and on the next Three Thousand Dollars (\$3,000.00) of taxable income, or any part thereof, the rate shall be three percent (3%);

(iv) For calendar year 2020, on the first Three Thousand Dollars (\$3,000.00) of taxable income there shall be no tax levied, and on the next Two Thousand Dollars (\$2,000.00) of taxable income, or any part thereof, the rate shall be three percent (3%);

(v) For calendar year 2021, on the first Four Thousand Dollars (\$4,000.00) of taxable income there shall be no tax levied, and on the next One Thousand Dollars (\$1,000.00) of taxable income, or any part thereof, the rate shall be three percent (3%);

(vi) For calendar year 2022 and all taxable years thereafter, there shall be no tax levied on the first Five Thousand Dollars (\$5,000.00) of taxable income;

(b) On * * * taxable income in excess of Five Thousand Dollars (\$5,000.00) up to and including Ten Thousand Dollars (\$10,000.00), or any part thereof, * * * the rate * * * shall be four percent (4%); and

(c) On all taxable income in excess of Ten Thousand Dollars (\$10,000.00), * * * the rate * * * shall be five percent (5%).

(2) An S corporation, as defined in Section 27-8-3(1)(g), shall not be subject to the income tax imposed under this section.

(3) A like tax is hereby imposed to be assessed, collected and paid annually, except as hereinafter provided, at the rate specified in this section and as hereinafter provided, upon and with respect to the entire net income, from all property owned or sold, and from every business, trade or occupation carried on in this state by individuals, corporations, partnerships, trusts or estates, not residents of the State of Mississippi.

(4) In the case of taxpayers having a fiscal year beginning in * * * a calendar year * * * with a rate in effect that is different than the rate in effect for the next calendar year and ending * * * in the next calendar year, the tax due for that taxable year shall be determined by:

(a) Computing for the full fiscal year the amount of tax that would be due under the rates in effect for the calendar year * * * in which the fiscal year begins; and

(b) Computing for the full fiscal year the amount of tax that would be due under the rates in effect for the calendar year * * * in which the fiscal year ends; and

(c) Applying to the tax computed under paragraph (a) the ratio which the number of months falling within the earlier calendar year bears to the total number of months in the fiscal year; and

(d) Applying to the tax computed under paragraph (b) the ratio which the number of months falling within the later calendar year bears to the total number of months within the fiscal year; and

(e) Adding to the tax determined under paragraph (c) the tax determined under paragraph (d) the sum of which shall be the amount of tax due for the fiscal year.

SECTION 2. Section 27-7-18, Mississippi Code of 1972, is amended as follows:

27-7-18. (1) Alimony payments. In the case of a person described in Section 27-7-15(2)(e), there shall be allowed as a deduction from gross income amounts paid as periodic payments to the extent of such amounts as are includible in the gross income of the spouse as provided in Section 27-7-15(2)(e), payment of which is made within the person's taxable year.

(2) Unreimbursed moving expenses incurred after December 31, 1994, are deductible as an adjustment to gross income in accordance with provisions of the United States Internal Revenue Code, and rules, regulations and revenue procedures thereunder relating to moving expenses, not in direct conflict with the provisions of the Mississippi Income Tax Law.

(3) Amounts paid after December 31, 1998, by a self-employed individual for insurance which constitute medical care for the taxpayer, his spouse and dependents, are deductible as an adjustment to gross income in accordance with provisions of the United States Internal Revenue Code, and rules, regulations and revenue procedures thereunder relating to such payments, not in direct conflict with the provisions of the Mississippi Income Tax Law.

(4) Contributions or payments to a Mississippi Affordable College Savings (MACS) Program account are deductible from gross income as provided in Section 37-155-113. Payments made under a prepaid tuition contract entered into under the Mississippi Prepaid Affordable College Tuition Program are deductible as provided in Section 37-155-17.

(5) (a) Unreimbursed travel expenses, lodging expenses and lost wages an individual incurred as a result of, and related to, the donation, while living, of one or more of his or her organs for human organ transplantation, are deductible from gross income. The deduction from gross income authorized by this subsection may

be claimed for only once and may not exceed Ten Thousand Dollars (\$10,000.00).

(b) As used in this subsection, "organ" means all or part of a liver, pancreas, kidney, intestine, lung or bone marrow.

(6) In the case of a self-employed individual, there shall be allowed as a deduction from gross income an amount equal to:

(a) Seventeen percent (17%) of the federal self-employment taxes imposed on such individual for taxable years ending in calendar year 2017;

(b) Thirty-four percent (34%) of the federal self-employment taxes imposed on such individual for taxable years ending in calendar year 2018; and

(c) Fifty percent (50%) of the federal self-employment taxes imposed on such individual for taxable years ending in calendar year 2019 and thereafter.

SECTION 3. Section 27-13-5, Mississippi Code of 1972, is amended as follows:

27-13-5. (1) (a) **Franchise tax levy.** Except as otherwise provided in subsections (3), (4), (5) and (7) of this section, there is hereby imposed, to be paid and collected as hereinafter provided, a franchise or excise tax upon every corporation, association or joint-stock company or partnership treated as a corporation under the income tax laws or regulations, organized or created for pecuniary gain, having privileges not possessed by individuals, and having authorized capital stock now existing in

this state, or hereafter organized, created or established, under and by virtue of the laws of the State of Mississippi, equal to:

(i) For tax years beginning before January 1, 2018, Two Dollars and Fifty Cents (\$2.50) for each One Thousand Dollars (\$1,000.00), or fraction thereof, of the value of the capital used, invested or employed in the exercise of any power, privilege or right enjoyed by such organization within this state, except as hereinafter provided.

(ii) For tax years beginning on or after January 1, 2018, but before January 1, 2019, Two Dollars and Fifty Cents (\$2.50) for each One Thousand Dollars (\$1,000.00), or fraction thereof, in excess of One Hundred Thousand Dollars (\$100,000.00), of the value of the capital used, invested or employed in the exercise of any power, privilege or right enjoyed by such organization within this state, except as hereinafter provided.

(iii) For tax years beginning on or after January 1, 2019, but before January 1, 2020, Two Dollars and Twenty-five Cents (\$2.25) for each One Thousand Dollars (\$1,000.00), or fraction thereof, in excess of One Hundred Thousand Dollars (\$100,000.00), of the value of the capital used, invested or employed in the exercise of any power, privilege or right enjoyed by such organization within this state, except as hereinafter provided.

(iv) For tax years beginning on or after January 1, 2020, but before January 1, 2021, Two Dollars (\$2.00) for each

One Thousand Dollars (\$1,000.00), or fraction thereof, in excess of One Hundred Thousand Dollars (\$100,000.00), of the value of the capital used, invested or employed in the exercise of any power, privilege or right enjoyed by such organization within this state, except as hereinafter provided.

(v) For tax years beginning on or after January 1, 2021, but before January 1, 2022, One Dollar and Seventy-five Cents (\$1.75) for each One Thousand Dollars (\$1,000.00), or fraction thereof, in excess of One Hundred Thousand Dollars (\$100,000.00), of the value of the capital used, invested or employed in the exercise of any power, privilege or right enjoyed by such organization within this state, except as hereinafter provided.

(vi) For tax years beginning on or after January 1, 2022, but before January 1, 2023, One Dollar and Fifty Cents (\$1.50) for each One Thousand Dollars (\$1,000.00), or fraction thereof, in excess of One Hundred Thousand Dollars (\$100,000.00), of the value of the capital used, invested or employed in the exercise of any power, privilege or right enjoyed by such organization within this state, except as hereinafter provided.

(vii) For tax years beginning on or after January 1, 2023, but before January 1, 2024, One Dollar and Twenty-five Cents (\$1.25) for each One Thousand Dollars (\$1,000.00), or fraction thereof, in excess of One Hundred Thousand Dollars (\$100,000.00), of the value of the capital used, invested or

employed in the exercise of any power, privilege or right enjoyed by such organization within this state, except as hereinafter provided.

(viii) For tax years beginning on or after January 1, 2024, but before January 1, 2025, One Dollar (\$1.00) for each One Thousand Dollars (\$1,000.00), or fraction thereof, in excess of One Hundred Thousand Dollars (\$100,000.00), of the value of the capital used, invested or employed in the exercise of any power, privilege or right enjoyed by such organization within this state, except as hereinafter provided.

(ix) For tax years beginning on or after January 1, 2025, but before January 1, 2026, Seventy-five Cents (75¢) for each One Thousand Dollars (\$1,000.00), or fraction thereof, in excess of One Hundred Thousand Dollars (\$100,000.00), of the value of the capital used, invested or employed in the exercise of any power, privilege or right enjoyed by such organization within this state, except as hereinafter provided.

(x) For tax years beginning on or after January 1, 2026, but before January 1, 2027, Fifty Cents (50¢) for each One Thousand Dollars (\$1,000.00), or fraction thereof, in excess of One Hundred Thousand Dollars (\$100,000.00), of the value of the capital used, invested or employed in the exercise of any power, privilege or right enjoyed by such organization within this state, except as hereinafter provided.

(xi) For tax years beginning on or after January 1, 2027, but before January 1, 2028, Twenty-five Cents (25¢) for each One Thousand Dollars (\$1,000.00), or fraction thereof, in excess of One Hundred Thousand Dollars (\$100,000.00), of the value of the capital used, invested or employed in the exercise of any power, privilege or right enjoyed by such organization within this state, except as hereinafter provided.

(b) In no case shall the franchise tax due for the accounting period be less than Twenty-five Dollars (\$25 00).

(c) It is the purpose of this section to require the payment to the State of Mississippi of this tax for the right granted by the laws of this state to exist as such organization, and to enjoy, under the protection of the laws of this state, the powers, rights, privileges and immunities derived from the state by the form of such existence.

(2) **Annual report of domestic corporations.** Each domestic corporation shall file an annual report as required by the provisions of Section 79-4-16.22.

(3) A corporation that has negotiated a fee-in-lieu as defined in Section 57-75-5 shall not be subject to the tax levied by this section on such project; provided, however, that the fee-in-lieu payment shall be otherwise treated in the same manner as the payment of franchise taxes.

(4) An approved business enterprise as defined in the Growth and Prosperity Act shall not be subject to the tax levied by this

section on the value of capital used, invested or employed by the approved business enterprise in a growth and prosperity county or supervisors district as provided in the Growth and Prosperity Act.

(5) A business enterprise operating a project as defined in Section 57-64-33, in a county that is a member of a regional economic development alliance created under the Regional Economic Development Act shall not be subject to the tax levied by this section on the value of capital used, invested or employed by the business enterprise in such a county as provided in Section 57-64-33.

(6) The tax levied by this chapter and paid by a business enterprise located in a redevelopment project area under Sections 57-91-1 through 57-91-11 shall be deposited into the Redevelopment Project Incentive Fund created in Section 57-91-9.

(7) A business enterprise as defined in Section 57-113-1 that is exempt from certain state taxes under Section 57-113-5 shall not be subject to the tax levied by this section on the value of capital used, invested or employed by the business enterprise.

SECTION 4. Section 27-13-7, Mississippi Code of 1972, is amended as follows:

27-13-7. (1) (a) **Franchise tax levy.** Except as otherwise provided in subsections (3), (4), (5) and (7) of this section, there is hereby imposed, levied and assessed upon every corporation, association or joint-stock company, or partnership

treated as a corporation under the income tax laws or regulations as hereinbefore defined, organized and existing under and by virtue of the laws of some other state, territory or country, or organized and existing without any specific statutory authority, now or hereafter doing business or exercising any power, privilege or right within this state, as hereinbefore defined, a franchise or excise tax equal to:

(i) For tax years beginning before January 1, 2018, Two Dollars and Fifty Cents (\$2.50) of each One Thousand Dollars (\$1,000.00), or fraction thereof, of the value of capital used, invested or employed within this state, except as hereinafter provided.

(ii) For tax years beginning on or after January 1, 2018, but before January 1, 2019, Two Dollars and Fifty Cents (\$2.50) for each One Thousand Dollars (\$1,000.00), or fraction thereof, in excess of One Hundred Thousand Dollars (\$100,000.00), of the value of the capital used, invested or employed in the exercise of any power, privilege or right enjoyed by such organization within this state, except as hereinafter provided.

(iii) For tax years beginning on or after January 1, 2019, but before January 1, 2020, Two Dollars and Twenty-five Cents (\$2.25) for each One Thousand Dollars (\$1,000.00), or fraction thereof, in excess of One Hundred Thousand Dollars (\$100,000.00), of the value of the capital used, invested or employed in the exercise of any power, privilege or right enjoyed

by such organization within this state, except as hereinafter provided.

(iv) For tax years beginning on or after January 1, 2020, but before January 1, 2021, Two Dollars (\$2.00) for each One Thousand Dollars (\$1,000.00), or fraction thereof, in excess of One Hundred Thousand Dollars (\$100,000.00), of the value of the capital used, invested or employed in the exercise of any power, privilege or right enjoyed by such organization within this state, except as hereinafter provided.

(v) For tax years beginning on or after January 1, 2021, but before January 1, 2022, One Dollar and Seventy-five Cents (\$1.75) for each One Thousand Dollars (\$1,000.00), or fraction thereof, in excess of One Hundred Thousand Dollars (\$100,000.00), of the value of the capital used, invested or employed in the exercise of any power, privilege or right enjoyed by such organization within this state, except as hereinafter provided.

(vi) For tax years beginning on or after January 1, 2022, but before January 1, 2023, One Dollar and Fifty Cents (\$1.50) for each One Thousand Dollars (\$1,000.00), or fraction thereof, in excess of One Hundred Thousand Dollars (\$100,000.00), of the value of the capital used, invested or employed in the exercise of any power, privilege or right enjoyed by such organization within this state, except as hereinafter provided.

(vii) For tax years beginning on or after January 1, 2023, but before January 1, 2024, One Dollar and Twenty-five Cents (\$1.25) for each One Thousand Dollars (\$1,000.00), or fraction thereof, in excess of One Hundred Thousand Dollars (\$100,000.00), of the value of the capital used, invested or employed in the exercise of any power, privilege or right enjoyed by such organization within this state, except as hereinafter provided.

(viii) For tax years beginning on or after January 1, 2024, but before January 1, 2025, One Dollar (\$1.00) for each One Thousand Dollars (\$1,000.00), or fraction thereof, in excess of One Hundred Thousand Dollars (\$100,000.00), of the value of the capital used, invested or employed in the exercise of any power, privilege or right enjoyed by such organization within this state, except as hereinafter provided.

(ix) For tax years beginning on or after January 1, 2025, but before January 1, 2026, Seventy-five Cents (75¢) for each One Thousand Dollars (\$1,000.00), or fraction thereof, in excess of One Hundred Thousand Dollars (\$100,000.00), of the value of the capital used, invested or employed in the exercise of any power, privilege or right enjoyed by such organization within this state, except as hereinafter provided.

(x) For tax years beginning on or after January 1, 2026, but before January 1, 2027, Fifty Cents (50¢) for each One Thousand Dollars (\$1,000.00), or fraction thereof, in excess of

One Hundred Thousand Dollars (\$100,000.00), of the value of the capital used, invested or employed in the exercise of any power, privilege or right enjoyed by such organization within this state, except as hereinafter provided.

(xi) For tax years beginning on or after January 1, 2027, but before January 1, 2028, Twenty-five Cents (25¢) for each One Thousand Dollars (\$1,000.00), or fraction thereof, in excess of One Hundred Thousand Dollars (\$100,000.00), of the value of the capital used, invested or employed in the exercise of any power, privilege or right enjoyed by such organization within this state, except as hereinafter provided.

(b) In no case shall the franchise tax due for the accounting period be less than Twenty-five Dollars (\$25.00).

(c) It is the purpose of this section to require the payment of a tax by all organizations not organized under the laws of this state, measured by the amount of capital or its equivalent, for which such organization receives the benefit and protection of the government and laws of the state.

(2) **Annual report of foreign corporations.** Each foreign corporation authorized to transact business in this state shall file an annual report as required by the provisions of Section 79-4-16.22.

(3) A corporation that has negotiated a fee-in-lieu as defined in Section 57-75-5 shall not be subject to the tax levied by this section on such project; provided, however, that the

fee-in-lieu payment shall be otherwise treated in the same manner as the payment of franchise taxes.

(4) An approved business enterprise as defined in the Growth and Prosperity Act shall not be subject to the tax levied by this section on the value of capital used, invested or employed by the approved business enterprise in a growth and prosperity county or supervisors district as provided in the Growth and Prosperity Act.

(5) A business enterprise operating a project as defined in Section 57-64-33, in a county that is a member of a regional economic development alliance created under the Regional Economic Development Act shall not be subject to the tax levied by this section on the value of capital used, invested or employed by the business enterprise in such a county as provided in Section 57-64-33.

(6) The tax levied by this chapter and paid by a business enterprise located in a redevelopment project area under Sections 57-91-1 through 57-91-11 shall be deposited into the Redevelopment Project Incentive Fund created in Section 57-91-9.

(7) A business enterprise as defined in Section 57-113-1 that is exempt from certain state taxes under Section 57-113-5 shall not be subject to the tax levied by this section on the value of capital used, invested or employed by the business enterprise.

SECTION 5. Sections 27-13-1, 27-13-3, 27-13-5, 27-13-7, 27-13-8, 27-13-9, 27-13-11, 27-13-13, 27-13-15, 27-13-17,

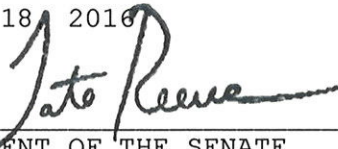
27-13-19, 27-13-21, 27-13-23, 27-13-25, 27-13-27, 27-13-29, 27-13-31, 27-13-33, 27-13-35, 27-13-37, 27-13-39, 27-13-41, 27-13-47, 27-13-49, 27-13-51, 27-13-53, 27-13-55, 27-13-57, 27-13-59, 27-13-61, 27-13-63, 27-13-65 and 27-13-67, Mississippi Code of 1972, which are the corporation franchise tax law, are repealed from and after January 1, 2028

SECTION 6 This act shall be known and may be cited as the "Taxpayer Pay Raise Act of 2016."

SECTION 7. Nothing in this act shall affect or defeat any claim, assessment, appeal, suit, right or cause of action for taxes due or accrued under the income tax law or corporation franchise tax law before the date on which this act becomes effective, whether such claims, assessments, appeals, suits or actions have been begun before the date on which this act becomes effective or are begun thereafter; and the provisions of the income tax laws and corporation franchise tax laws are expressly continued in full force, effect and operation for the purpose of the assessment, collection and enrollment of liens for any taxes due or accrued and the execution of any warrant under such laws before the date on which this act becomes effective, and for the imposition of any penalties, forfeitures or claims for failure to comply with such laws.

SECTION 8. This act shall take effect and be in force from and after January 1, 2016.

PASSED BY THE SENATE
April 18, 2016



PRESIDENT OF THE SENATE

PASSED BY THE HOUSE OF REPRESENTATIVES
April 18, 2016



SPEAKER OF THE HOUSE OF REPRESENTATIVES

APPROVED BY THE GOVERNOR



GOVERNOR

May 13, 2016
10:33am